United Nations CCPR/C/GRC/CO/2/Add.1

International Covenant on Civil and Political Rights

Distr.: General
31 January 2017

English only

Human Rights Committee

Concluding observations on the second periodic report of Greece

Addendum

Information received from Greece on follow-up to the concluding observations*

[Date received: 6 December 2016]

* The present document is being issued without formal editing.

GE.17-01486(E)

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UNITED NATIONS
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1. Greece has the pleasure to hereby submit, in accordance with rule 71, paragraph 5, of the Human Rights Committee's rules of procedure, information on the implementation of the recommendations made by the Committee in paragraphs 16, 32 and 34 of its Concluding Observations, following the consideration of Greece's second periodic report on 19 and 20 October 2015.

Excessive use of force and ill-treatment (para. 16)

2. In cases of human rights violations, the Hellenic Police personnel are held accountable by the criminal courts (under the conditions set out by the law), and, in any case of complaint, are subject to administrative control, which is ensured by the particularly strict disciplinary law (Presidential Decree 120/2008). Punishment of unlawful conduct is carried out as quickly as possible.

3. Complaints for misconduct (abuse or ill-treatment) by police officers against nationals or non-nationals or for disproportionate use of force, which come to the knowledge of the Hellenic Police Headquarters or its regional Offices (complaints, press reports or online press reports, lawsuits etc.) give rise to investigation procedures. To this end, an administrative enquiry is immediately ordered, in order to establish whether the complaints are founded or not and in order to attribute disciplinary liability to any police officer involved. For the administrative investigation of such complaints, depending on the evidence, the appropriate procedure is followed, under Presidential Decree 120/2008. The administrative investigation is entrusted to police officers upon whom the officer, or Police Department, involved are not administratively dependent, i.e. to officers of other Departments. Whenever the commission of a disciplinary offence is established, the appropriate disciplinary measure is imposed to the perpetrator. Indicatively, according to the provisions of the aforementioned Presidential Decree, acts which constitute torture and other violations of human dignity, within the meaning of article 137A of the Hellenic Penal Code, or involve undignified aspects or any behaviour unworthy for a police officer, are subject to the penalty of dismissal, while acts which constitute brutality towards citizens or are incompatible with the status of a police officer are punishable by severe disciplinary sanctions (suspension with dismissal). Moreover, the relevant rules and principles of the international and European legal order, which have been incorporated into domestic law (substantive and procedural criminal law) apply mutatis mutandis to Disciplinary Law; any delays in the hearing of disciplinary cases are related to the strict observance of procedural rules ensuring both the rights of the accused police officer (presumption of innocence), a more thorough investigation of the cases and the good administration of justice.

4. Concerning allegations of ill-treatment by law enforcement officials, including detention facility agents, Greece fully subscribes to the recommendation of the Committee that such allegations should be thoroughly and promptly investigated by an independent authority.

5. To this end, the competent ministries (Ministry of Justice, Transparency and Human Rights, Ministry of Interior / Citizens' Protection and Ministry of Maritime and Island Policy) have drafted a bill providing for the designation of the Greek Ombudsman, an independent authority according to the Greek Constitution, as the "National Mechanism for the investigation of incidents of ill-treatment committed by law enforcement and detention facility agents". The draft bill has been tabled before Parliament. On 22 November 2016, the competent parliamentary committee recommended the adoption of the draft bill by the Plenary.

6. The National Mechanism is a mechanism additional to the judicial system and the internal (disciplinary) procedures of the respective authorities, which will further guarantee that such incidents are fully and effectively investigated.

7. In conformity with the legal status of the Greek Ombudsman as an independent authority and in order to ensure efficiency, effectiveness and transparency, the Ombudsman's investigation is a fast track procedure that can be initiated even proprio motu.

8. More specifically, the draft law entrusts the Greek Ombudsman with the responsibility to collect, record, evaluate, investigate or forward to the services responsible for exercising disciplinary control, complaints about acts of uniformed personnel of the Hellenic Police, the Hellenic Coast Guard, the Fire Service and detention facility agents. The Greek Ombudsman deals with relevant cases: a) following a complaint, b) on his/her own initiative, c) after referral of the case by the competent Minister or Secretary General of the Ministry. The Ombudsman's report should be prepared within three months after the Office has taken over the investigation of the case. During the investigation, the Greek Ombudsman may receive copies of the whole content of the disciplinary file which may have already been formed and shall carry out the investigation according to the provisions of Law 3094/2003 (the founding law of the Greek Ombudsman, as amended) and shall ensure a fair hearing for the persons under investigation. The disciplinary bodies of each Agency shall suspend the issuance of their decision until the Ombudsman submits the report on the case, which (report) is associated with the disciplinary file. The final decision of the disciplinary body may depart from the operative part of the report only with specific and detailed justification.

9. The draft bill also provides for the reopening and examination by the Greek Ombudsman of cases related to incidents of ill-treatment by law enforcement agents, where the European Court of Human Rights has found a violation of the European Convention on Human Rights.

10. Concerning the follow-up to the activities of the new mechanism, the Ombudsman shall issue an annual report providing case statistics and general recommendations on measures to prevent and combat incidents of ill-treatment. In addition to the above, the Ombudsman already submits an annual report to the President of the Hellenic Parliament, presenting its work, as well as recommendations for improvements and legislative adjustments. The annual report is discussed in Parliament.

11. Concerning compensation to victims of such crimes, Greek legislation provides for the right of victims of criminal acts to file a civil lawsuit against the perpetrator to claim compensation. In civil law cases, victims with a low income may request an "indigence benefit'. In such a case, the person concerned is exempted of all fees and expenses. Victims may also seek compensation from the Greek Authority on compensation of victims of violent crimes. Support and information to victims will be further reinforced through the new bill on the protection of victims of crime (transposition of EU Directive 2012/29) which is being forwarded to Parliament.

12. Moreover, persons with low income may request free legal aid. Victims of certain crimes (domestic violence, slavery, trafficking, kidnapping and other serious crimes, children victims of rape, sexual exploitation, etc.) are provided with free legal aid irrespective of their income. Likewise, victims of torture and other violations of human dignity, discrimination, crimes against life, freedom, sexual dignity, sexual exploitation, etc. with a low income have the right to a counsel appointed by the state for filing a criminal complaint and participating in the criminal proceedings against the perpetrators.

13. Furthermore, victims of all crimes prosecuted ex officio, all beneficiaries of free legal aid, as well as victims of sexual exploitation, trafficking, domestic violence and hate speech are exempted from the obligation to pay a fee for the initiation of criminal proceedings.

14. In addition, regarding the issue of police officers' training, it should be stressed that at basic training level, in the Hellenic Police Academy and the Police Constables' School,

the topic "Human Rights" is being taught as a separate module, as part of the courses "Constitutional Law — Human Rights" and "Elements of Constitutional Law — Human Rights and Administrative Law" in accordance with Presidential Decrees 319/1995 and 352/1995, respectively. Teaching of this subject is performed by reputable academics and expert scientific staff. Also, relevant lectures on the subject of human rights are carried out in the above schools. At the level of further training, the Hellenic Police staff is trained on issues of racism, xenophobia, combating sexual and domestic violence, safeguarding rights of accused persons and taking measures to protect public order during demonstrations.

15. In the field of migration management, a number of training activities have been taking place since 2013. In this context, the Hellenic Police introduced the "Common Core Curriculum" of the European Border and Coast Guard Agency (Frontex) in the curriculum of the students in the schools of the Police Academy, which lays the foundation of basic training of border guards of this organization. In the above context, a specific course for "Human Rights" is taught, the material of which includes reference to the national and European legal system of human rights protection, children protection, protection of asylum seekers etc. At national level, with the cooperation of Frontex, almost every year a seminar for border guards is organized on the protection of human rights. Fifty (50) officers have, since 2013, attended the above seminar at basic level, nine (9) of whom additionally attended the seminar "Training of Trainers" regarding the protection of human rights. The seminars cover the following topics: overview of human rights protection, Frontex strategy on fundamental rights and their protection, first reception procedures — interviews — international protection — detention, etc. Trainees are from Police Directorates throughout the country and are responsible for immigration issues.

16. Moreover, the Hellenic Police cooperate with the Council of Europe's Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, the National Commission for Human Rights, the Greek Ombudsman, the United Nations High Commissioner for Refugees, non-Governmental Organizations (NGOs) etc. for information and training purposes of police officers on respect for human rights, as well as to provide support to refugees, migrants and, in general, members of vulnerable social groups and detainees.

Unaccompanied minors (para. 32)

17. Currently, there are 2,400 unaccompanied children in Greece, who are staying either in accommodation facilities or in the Reception and Identification Centers (RICs) or in open accommodation sites. Upon their arrival, unaccompanied minors are registered and are then referred to the National Center for Social Solidarity, as well as to the local Prosecutor, who acts as their temporary guardian. Thereafter, they stay in the RICs for the necessary time for their safe referral to appropriate accommodation facilities, which cannot exceed 25 days. In extreme cases, when there is a lack of available places in such facilities, their stay in the RICs may be prolonged for a further 20 days. During their stay in the RICs, unaccompanied minors stay in separate accommodation sections and are provided with shelter, food, psychosocial support, legal support, non-formal education lessons, etc. In addition, they are allowed to go outside the RIC, under supervision.

18. One of the most pressing challenges that the authorities are currently facing is the lack of available accommodation places. The Ministry of Labour, Social Security and Social Solidarity has been promoting since the beginning of 2016, the creation of new shelters. To this effect, it has proceeded to a property mapping throughout the country, in order to identify areas suitable for shelters for the unaccompanied minors.

19. As a result, since April 2016, the number of shelters rose from 17 to 41 (including 8 shelters with 223 places created by the Ministry of Labour in cooperation with NGOs and

international organizations) and the number of available places from 420 to approximately 1,110.

20. The number of children in protective custody remains very small, less than 20, and the period of detention does not exceed 10 days, since the abovementioned children are prioritized for placement in shelters. These are mainly minors identified by the police during routine checks and placed under the latter's responsibility to ensure their protection, until a more appropriate solution has been found.

21. It is true that the guardianship system needs to be improved as a matter of priority. The Ministry of Labour is preparing a law on guardianship, which will shortly be submitted before Parliament, The new guardianship system aims at enhancing the protection of children deprived of parental care and will be implemented by the National Center for Social Solidarity. Furthermore, the amendment of the law on foster care, which is also underway, will include special provisions for unaccompanied minors.

22. It is to be noted that "safe zones" for unaccompanied minors have been established in the existing open accommodation sites, where care is provided to minors at all times.

23. Finally, age assessment procedures are conducted in the RICs by a doctor and a psychologist. In case of doubt, and taking into account the principle of the best interests of the child, the persons concerned are registered as minors.

Expulsion of asylum seekers and undocumented immigrants (para. 34)

24. First of all, Greece would like to reiterate and stress that all asylum requests are examined individually and on a case-by-case basis. No collective expulsions are carried out. The principle of non-refoulement is fully observed.

25. The obligations of the Hellenic Police personnel on the protection of human rights and fundamental freedoms of both nationals and non-nationals, including controlled, arrested or detained persons, are provided for in the Constitution and in domestic laws, in the international human rights treaties ratified by Greece, in particular the International Covenant on Civil and Political Rights, in the Code of Conduct for Law Enforcement Officials, the UN Council of Europe European Code of Police Ethics, as well as in the Regulations and Service Orders of the Hellenic Police.

26. The Hellenic Police implement the requirements of international, European and national legal framework on the protection of persons who request international protection. In addition, in the operational plans of the joint Border Management Action (coordinated by the European Border and Coast Guard Agency (Frontex)) there are references to the principle of non-refoulement when detecting irregular nationals of third countries, seeking international protection. In all border guarding activities, it is ensured that asylum seekers have access to safe entry points, from which they are referred to the relevant asylum authorities, which subsequently assess their requests.

27. Also, a new regulation of the EU (2016/1624 of the European Parliament and of the Council of 14.09.2016), which came into force on the 6 of October, 2016, provides for the establishment of a complaints mechanism, according to which, any person directly affected from the actions of the staff involved in a joint border management operation and who considers himself or herself to have been the subject of a breach of his/her fundamental rights, may complain in writing to the European Border and Coast Guard Agency (Frontex). The home Member State of the border guard, against whom a complaint has been made, is responsible for taking appropriate measures, including the implementation of the appropriate disciplinary proceedings.

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